



NATIONAL ASSOCIATION OF AIR TRAFFIC SPECIALISTS

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STATEMENT

before the

COMMITTEE

ON

GOVERNMENTAL AFFAIRS

UNITED STATES SENATE

Ninety-ninth Congress

Chaired by

THE HONORABLE TED STEVENS

on

**BENEFITS FOR AIR TRAFFIC CONTROL SPECIALISTS (STATION)
EMPLOYEES OF THE FEDERAL AVIATION ADMINISTRATION
DEPARTMENT OF TRANSPORTATION**

by

**BRUCE B. HENRY
PRESIDENT & EXECUTIVE DIRECTOR
NATIONAL ASSOCIATION OF
AIR TRAFFIC SPECIALISTS**

September 10, 1985

Mr. Chairman and distinguished Members of this Committee, I am grateful that you have provided me with the opportunity to appear before you and to express my thoughts and opinions relative to early retirement benefits for Air Traffic Control Specialists (Station). I am accompanied by Mr. Edward L. Huie, our Director of Legislative Affairs.

We believe that the issue before you is one of air safety and fairness.

The Flight Service System is an integral part of the Air Traffic Control System and there are about 317 flight service stations throughout the United States. The personnel who staff the Air Traffic Control System are designated by the Office of Personnel Management as Series 2152 and are called:

. Air Traffic Control Specialists (Station)

This category is the least understood of all the categories because of the lack of term standardization and the widespread use of colloquialisms. FAA, and others as well, confuse the issue by referring to this category as Flight Service Specialists, Specialists, Flight Service Station Specialists, Station Specialists, Station Personnel, Station Controllers and Controllers. It is so confusing that uninformed persons sometimes infer that these are the personnel who fuel and maintain aircraft. For NAATS, this is an overwhelming educational burden. An example is included as Attachment (1) hereto (FAA news release dated March 5, 1985 -- FAA 10-85).

The two other categories are:

- . Air Traffic Control Specialists (Terminal)
- . Air Traffic Control Specialists (Center)

This Association is designated by the Secretary of Labor as the exclusive representative of all the bargaining unit members who are Air Traffic Control Specialists (Station) Series 2152.

Personnel in all three categories are frequently called "Controllers" by FAA and others as well, and one might infer that they actually control aircraft in the ordinary sense of the word "control." Federal Aviation Administration Regulation 91.3(a) clearly states: "The pilot in command of an aircraft is directly responsible for, and is the final authority as to the operation of that aircraft".

If responsibility for operation of the aircraft is vested in the "pilot in command" as the FAA has prescribed, then control and separation can only be exercised by the pilot and not by an FAA employee located on the ground in some faraway place using a radarscope, an inexact instrument at best even when operating at peak efficiency.

Additionally, we have all heard of radar "outages" in recent years, an event upon which the news media thrives. We often wonder how the media finds out about "outages" so quickly. Of course, when there is an "outage", the FAA ground

personnel can provide no information to the pilot at all. The Federal Aviation Administration has, therefore, wisely placed all command, control and separation squarely on the shoulders of the pilot because there is no other place where this awesome responsibility can be lodged.

On such a basis we do not believe that responsibility can be shared for the safety of that aircraft, and we believe that control can only be exercised in the cockpit.

We can provide no better example of this than the near miss between two jumbo jet aircraft on March 31, 1985, at Minneapolis, Minnesota, with a combined total of 500 people aboard. While the National Transportation Safety Board has not rendered its report, Chairman Burnett and other Safety Board personnel have been widely quoted by the news media. "Both crews were executing the air traffic control instructions they were provided, no question", according to Michael O'Rourke, investigator in charge for the Safety Board.

However, one pilot in command disregarded the "controller instructions" and acted on his own and within his authority and responsibility. He avoided what could have been a disaster reminiscent of the world's worst aviation disaster, where 577 people were killed in Tenerife, Canary Islands, in 1977 in a similar crossing situation.

This is not to say that the FAA employee on the ground has no responsibility, for he does have the responsibility for carrying out the assigned duties of that position which are

to provide information, issue clearances, make recommendations and to warn the pilot of other objects in the area as seen on his radarscope or sighted visually. He cannot in any way interfere with the prerogatives of command, which can be no less than absolute.

Nevertheless, we have heard in past hearings, and probably in this one as well, the FAA witness state that station personnel are not qualified for early retirement because they do not control and separate aircraft. We hasten to add that no FAA employee on the ground controls and separates aircraft with the exception of the operation of a drone aircraft (no pilot) and, in this case, control is exercised from a ground position or from another vehicle. An example of this was the recent intentional crash of FAA aircraft in the desert for reasons of research. In that specific case, FAA employees on the ground did, in fact, exercise the prerogatives of command, control and separation. This is the only example that has come to our attention, where control and separation have been experienced by FAA ground personnel.

In our view, commercial air carriers are not too anxious for it to be well known that their pilots in command bear the full responsibility for the aircraft. It is in their best interest to dilute and confuse the issue when it comes to public liability litigation and, if possible, involve the government as much as possible in sharing damages which may be awarded by the courts as the result of an aircraft accident or crash. This applies to the General Aviation

community as well.

In FAA's recent report to the Congress entitled "FY 1985-87 Planned Office and Facility Consolidations--To Improve System Effectiveness and Efficiency", dated December 1, 1984, the functions and mission of the flight service stations are set forth as follows:

"Flight Service Station (FSS). Flight service stations offer a broad range of pre-flight and in-flight services aimed at general aviation (or non-airline) pilots. These services include conducting pre-flight weather briefings for pilots and accepting and closing flight plans, primarily through telephone and radio communications. Additionally, FSS's provide enroute communications with pilots flying under Visual Flight Rules (VFR), assist pilots in distress, work with search and rescue units in locating missing aircraft, assist lost aircraft and aircraft in emergency situations, monitor radio navigation stations, relay air traffic control (ATC) clearances, originate Notices to Airmen, broadcast aviation weather and National Airspace System (NAS) information, receive and process Instrument Flight Rules (IFR) flight plans, and monitor radio air navigations facilities (NAVAIDS). In addition, at selected locations, FSS's provide Enroute Flight Advisory service (Flight Watch), take weather observations, issue airport advisories, and advise Customs and Immigration of transborder flights. The FSS's also have communications equipment for relaying information to air traffic towers and control centers and for various emergency services. Flight service stations are under the general direction of the regional Air Traffic Divisions and Washington headquarters."

This statement of mission and function deserves careful study:

- . In the first sentence, the FAA attempts to downgrade our service by eliminating scheduled airline pilots as one of the users of flight service information. While the service may be aimed at general aviation pilots, the truth is that scheduled carriers are very frequent users of flight service products.
- . The word "emergency" is used twice.

Other phrases:

- . Assist pilots in distress.
- . Work with search and rescue units in locating missing aircraft.
- . Assist lost aircraft and aircraft in emergency situations.
- . Advise Customs and Immigration of transborder flights (includes drug and narcotics interdiction--added).

It is very significant that 45.7 percent (1985 House Appropriations Hearings, Part 6, page 641), of all flight assists were made by Air Traffic Control Specialists (Station), while the system was endowed with only 18 percent of the total personnel positions in the Air Traffic Control System. To us, this looks like our people work in an environment where there are more opportunities to provide assistance for safe flight.

Flight assists are usually emergency situations where the pilot, passengers and aircraft are in jeopardy.

We believe that emergency situations create a tense working environment which requires the utmost from the journeyman in time-critical situations where superior judgment is required.

In this matter, we believe that the Federal Aviation Administration itself has expressed the strains upon the Air Traffic Control Specialists (Station) far more eloquently than we ourselves can express it. In the case of Marvin A. Miyai (an Air Traffic Control Specialist (Station)) v. Federal Aviation Administration, before the United States

Merit Systems Protection Board, at a hearing dated February 7, 1985, (Docket No. SFO7528510116), Mr. Malachy T. Coghlan, for the FAA, said of Mr. Miyai's job:

"There are few jobs that require more alertness of mind, more sound judgement (sic), the ability to assimilate information, and the ability to make split second decisions. The stresses and the strains of the job are incalculable. And there are very few people who can perform in that position."

The Comptroller General of the United States recently published a Report to the Congress, "Safety Standards on Small Passenger Aircraft," (GAO/RCED-84-2 of January 4, 1984), which is germane to the Flight Service System and sets forth the major safety problems with smaller aircraft. While the report deals specifically with small air carrier aircraft, the problems set forth are applicable, we believe, to all General Aviation aircraft. All of these are the primary customers of Flight Service. An appropriate excerpt from this report follows:

"For a variety of reasons it is difficult to attribute an aircraft accident to any single cause or factor. According to NTSB reports, aircraft accidents generally result from multiple causes. Yet, based on the accident statistics, one fact remains clear: Flying in a small carrier aircraft is definitely less safe than flying in a large one.

"How small commuter and air taxi aircraft are used obviously affects the level of safety that they can achieve. For example, small commuter aircraft average twice as many take-offs and landings per hour flown as do large air carrier aircraft (most accidents occur during take-offs and landings). Also, commuter and air taxi aircraft serve a significantly larger number of lesser equipped or remote airports than the large aircraft. Finally, small aircraft spend considerably more time operating at lower altitudes, where flying weather is often less than ideal.

"The incongruity of this situation, however, is that small aircraft, which are operating potentially under the more hazardous conditions, are being built and operated under FAA's least stringent airworthiness standards and operating rules for air carriers.

**"MAJOR CAUSES AND FACTORS THAT INFLUENCE
AIR CARRIER ACCIDENTS**

"While we cannot draw a direct link between accidents and specific causes, our analysis of FAA accident data for the period 1975-81 indicates that the causes and factors of air carrier accidents are related to three areas:

- personnel (including pilot and flight crew and other personnel such as mechanics and dispatchers),
- environment (airports, weather, and terrain), and
- aircraft (airframe, powerplant, instruments and accessories).

"Using FAA and NTSB data and our own analyses of these data on 1,327 commuter and air taxi accidents that occurred during 1975-81, we found that about 53 percent of the accident causes and factors were personnel-related, 30 percent were related to the environment, and 14 percent were related to the aircraft."

In aviation, overall, it is estimated that forty per cent of all accidents are weather related.

To approach this from another point of view, the National Transportation Safety Board (SB 85-01 of 1/10/85) has published the stark body count of fatalities for the past ten years, as listed on the following page.

Please note that hours flown in General Aviation are five times greater than hours flown for the scheduled carriers and fatalities are thirteen times greater. Moreover, General Aviation operates about one hundred times the number of aircraft.

The FAA prefers to deal in fatality rates per one hundred thousand hours flown. This produces minuscule results. We, however,

prefer to set forth the fatality count which we believe is a better measure of safety and does not include hundreds of thousands of "very safe" hours flown. The real hazards to aviation are weather, landings, takeoffs, and low altitude flying. This is the area of General Aviation operations.

FATALITIES

U.S. Air Carriers*		General Aviation**			
All Scheduled Service (Airlines) (14 CFR 121)		Air Taxis Commuters TOTAL	Air Taxis	Commuters	General Aviation
1975	122	1,355	69	28	1,258
1976	38	1,353	100	27	1,226
1977	78	1,430	118	32	1,280
1978	160	1,761	155	48	1,558
1979	351	1,380	77	66	1,237
1980	0	1,392	103	37	1,252
1981	4	1,410	94	34	1,282
1982	233	1,268	72	14	1,182
1983	15	1,119	62	11	1,046
P. 1984	4	1,094	55	41	998
Total 10 yr. period	1,005	13,562	905	338	12,319

AIRCRAFT HOURS FLOWN

P. 1984	7,302,000	35,626,000	3,328,000	1,757,000	30,541,000
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P. Preliminary

* About 2,200 aircraft

**Over 200,000 aircraft

Further, on February 28, 1985, the Chairman, National Transportation Safety Board, testified before the House Committee on Appropriations (Transportation) as follows:

"Tremendous strides have been made in aviation technology in the brief eight decades of its existence, and yet aviation continues to be plagued by one of the oldest causes of accidents in the book -- weather."

From this, one might observe that the FAA is concentrating the preponderance of its personnel and material resources in the safest and least accident-prone sector of the Air Traffic Control System (e.g., scheduled carriers).

From all this, we can only conclude that Air Traffic Control Specialists (Station) experience physical and mental strain and hardship in the workplace and that the work is unusually taxing and extremely stressful, perhaps more than any part of the Air Traffic Control System.

It is for these reasons that the Secretary of Transportation, in implementation of 5 USC 5542, included Air Traffic Control Specialists (Station) within the provisions of that law. The pertinent provisions are quoted below:

"(3) Notwithstanding paragraphs (1) and (2) of this subsection for an employee of the Department of Transportation who occupies a nonmanagerial position in GS-14 or under and, as determined by the Secretary of Transportation,

(A) the duties of which are critical to the immediate daily operation of the air traffic control system, directly affect aviation safety, and involve physical or mental strain or hardship;

(B) in which overtime work is therefore unusually taxing; and

(C) in which operating requirements cannot be met without substantial overtime work;

the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay."

Air Traffic Control Specialists (Station) are employees of the Department of Transportation. They do occupy nonmanagerial positions in GS-14 or under. Their duties are critical to the operation of the Air Traffic Control System and directly affect aviation safety. These duties involve physical and mental strain and hardship and, therefore, overtime work is unusually taxing. Lastly, operating requirements cannot be met without substantial overtime work.

In the House Appropriations Hearing for Fiscal Year 1985, (Part 6, page 641), the FAA estimated that overtime in the Flight Service System would be 163,561 hours.

Not only has the Secretary of Transportation determined that Air Traffic Control Specialists (Station) are covered by 5 USC 5542, but also the Secretary has reaffirmed this determination every pay period since the enactment of the law.

Not only is special overtime pay for Air Traffic Control Specialists (Station) provided in 5 USC 5542, but also premium pay is provided by the Congress in the Continuing Appropriations for Fiscal Year 1983 (P.L. 97-276 Oct. 2, 1982) quoted below:

"§5546a. Differential pay for certain employees of the Federal Aviation Administration

"(a) The Administrator of the Federal Aviation Administration (hereafter in this section referred to

as the 'Administrator') may pay premium pay at the rate of 5 per centum of the applicable rate of basic pay to--

"(1) any employee of the Federal Aviation Administration who is--

"(A) occupying a position in the air traffic series classified not lower than GS-9 and located in an air traffic control center or terminal or in a flight service station;..."

* * * * *

"(e)(1) The Administrator may pay premium pay to any air traffic controller or flight station specialist of the Federal Aviation Administration who, while working a regularly scheduled eight-hour period of service, is required by his supervisor to work during the fourth through sixth hour of such period without a break of thirty minutes for a meal.

"(2) Premium pay paid under paragraph (1) of this subsection shall be paid at the rate of 50 per centum of one-half of the applicable hourly rate of basic pay."

Here again the law is permissive as to its application, and the FAA Administrator has, for good and sufficient reasons, included Air Traffic Control Specialists (Station) as a group of employees qualified for the premium pay authorized.

We, accordingly, hold that the community of Air Traffic Control Specialists (Station) is a unique group of Federal employees who, by law, is worthy of special consideration and that exclusion of this group from early retirement benefits accorded to other Air Traffic Control Specialists of the same 2152 designation and covered by 5 USC 5542 and P.L. 97-276 constitutes unfair and inequitable treatment.

Unfair and inequitable treatment is demonstrated daily by the "Second Class Citizen" label which Air Traffic Control Specialists (Station) have applied to themselves on a national

basis with the attendant low morale environment which is apparent to even a casual observer.

The enabling legislation, Public Law 92-297, provided that only those GS-2152 series Air Traffic Control Specialists employed at centers and towers would be provided coverage and benefits under that legislation.

The discriminatory aspects of that legislation has divided the different categories of Air Traffic Control Specialists into the "haves" and the "have-nots" and has created a very real caste system within this safety and life-saving system.

This discrimination has escalated at all levels of the FAA and the legislation as enacted has proved to be detrimental, rather than beneficial, to aviation safety.

The cumulative effects of the discrimination by FAA, which favored one sector of its Air Traffic System workforce to the exclusion of another, has resulted in feverish attempts on the part of those covered by the legislation to protect the "private domain" interests, and they were provided with all possible aid and comfort by the FAA in continuing and expanding the area of discrimination.

The question is sometimes asked, "Can the Government be sued in aircraft accidents involving alleged negligence on the part of Air Traffic Control Specialists (Station)?" The answer to that question is in the affirmative, and there are numerous examples.

Accordingly, legal burden is upon the shoulders of every Air Traffic Control Specialist (Station) in the everyday performance of his/her duties.

While pay is not a subject of this hearing, discrimination certainly is a major subject. One only needs to refer to GAO Report "Development of the Classification Standard for Flight Service Station Specialists" (FPCD-79-52 of July 25, 1979) to find significant examples which are quoted:

"Because of the possibility of widespread work slowdowns by controllers, the Commissioners intervened directly in the decision making process. PATCO was granted a personal hearing by the Commissioners who overturned the Standards Division's position which resulted in a one-grade increase for controllers over what the Standards Division had recommended. NAATS was also granted a personal hearing, but it was unsuccessful in its appeal for higher grades for flight service station specialists."

We hold that if the Commissioners so much as lifted a finger in response to a threat of a widespread work slowdown by "controllers", then the Commissioners were, in fact, placed in the position of condoning the commission of an intended felonious act. Air Traffic Control Specialists (Station) did not threaten the Commissioners in any way nor did they contemplate any such action.

In the Secretary of Transportation's comment on this GAO report, the Secretary stated:

"It was the Department's and the Agency's expectations and point of view that selected air traffic control and FSS facilities should be elevated one grade level.

"Although the GAO concludes, and we agree, that proper procedures were followed by the CSC, we continue to be convinced that high-volume FSS facilities should be established at the GS-12 level. Nothing in the report changes this belief or resolves this dilemma."

This GAO Report was prepared at your request, Mr. Chairman, and we are eternally grateful for your demonstrated interest in the Flight Service System.

5 USC 2109 defines Air Traffic Controller as "an employee of the Department of Transportation who is actively engaged in the separation and control of air traffic", and provides that the Secretary of Transportation may prescribe regulations or determine the application of this section. As previously argued in this testimony, we contend that no FAA personnel on the ground controls aircraft.

It is interesting to note at this time the document used by the Secretary of Transportation to implement the provisions of P.L. 92-297. It is identified as Department of Transportation Federal Aviation Administration Order 3410.11a, dated May 16, 1975, and reprinted August 30, 1976, with change 1 entitled "ATC Second Career Program".

The "Foreword" to this order, signed by the "Acting Administrator", J. W. Cochran, is quoted:

"EXPLANATION. This order revises the ATCS Second Career Program to incorporate recommendations of the ATCS Second Career Review Committee, guidance contained in Supplemental Instruction letters issued as supplements to Order 3410.11, and recommendations from Washington and field offices."

No mention is made of retirement benefits and yet, on page 1, we find that the purpose of the order is significantly expanded:

"PURPOSE. This order implements Public Law 92-297 which is designed to improve the conditions of employment for air traffic controllers by offering retirement benefits, job training and special appeal procedures for those who are involuntarily removed from air traffic control work; and

to establish maximum age limitations for recruitment under 5 U.S.C. 2109, 3307, and 3384."

The coverage section is of such importance that it is set forth in its entirety:

"5. COVERAGE

- a. This order applies to and affords coverage for: employees of DOT with five or more years of career controller service who meet all of the following requirements; or the immediate supervisor or a nonsupervisory employee who meets all of the following requirements:
 - (1) Officially assigned to an air traffic control facility;
 - (2) Actively engaged in the separation and control of live air traffic;
 - (3) Occupies a position which requires him to meet on a continuing basis the physical qualification standards established by the Civil Service Commission for an air traffic controller.
- b. This coverage includes and is limited to full professional level controllers and their immediate supervisors; those assigned as flow controllers; and employees receiving developmental training at or above the established entry levels as defined by the classification standards and the Civil Service examination announcement at time of entrance on duty. Also included are controllers assigned to a combined Flight Service Station/Tower where the tower duties are performed on a regular, recurring basis. Where a second level or higher supervisor is required to serve as a career controller or as the immediate supervisor of a career controller or as the immediate supervisor of a career controller performing the full range of first level supervisor duties on a regular, recurring basis for a substantial portion (e.g., 50% or more) of his time, and these duties are included in the official position description, he is covered under P.L. 92-297.
- c. This coverage does not include employees temporarily assigned to control of live air traffic

primarily for the purpose of maintaining proficiency in order to aid in the performance of their other regularly assigned duties or primarily for research, development, or evaluation purposes. Also not included are employees receiving pre-developmental training at grades below the normal entrance level, supervisors of flow controllers, and second level and higher level supervisors except as provided in item b. above.

- d. Decisions regarding application of coverage provisions in this paragraph will be made by the regional/center directors. This authority may be redelegated to the manpower division chief. The regional/center director, or his designee, may refer questions regarding interpretations of coverage provisions to the Director of Personnel and Training."

Not only are "full professional level controllers" included in the coverage, but also those receiving developmental training and those employees holding "flow controller" positions.

The authority for making decisions regarding coverage provisions is delegated to regional/center directors of which there are thirty-one in number. Such authority may be further delegated to "manpower division chiefs".

Accordingly, we have 62 officials who may be authorized to make decisions relative to coverage under this order. How any standard for approval/disapproval can be achieved under these conditions is indeed mysterious to us.

To look further into the implementing order, we believe the section on retirement is germane to the confusion:

"12. RETIREMENT

- a. An employee who meets the service and age requirement under P.L. 92-297 has a vested right to such entitlement, which he may exercise at his option, regardless of subsequent job assignments within the Federal service. The annuity computed for employees retiring under the provisions of this order is based on the regular retirement formula with a guaranteed minimum equal to 50% of the high-3 average salary. The annuity is not reduced even if the employee is under age 55 at the time of separation.
- b. In order for the Civil Service Commission to determine whether the retirement claim of an employee is governed by P.L. 92-297, it is necessary that a certification will be made by the chief of the servicing payroll branch and will be based on the determination of creditable service made by the respective manpower division chief in coordination with the air traffic division chief, as appropriate.

A completed FAA Form 3300-30, signed by the manpower division chief, or his designee, will be forwarded along with Standard Form 2801, Application for Retirement, (and any other applicable material) to the chief of the payroll branch. Based on this information, the payroll chief will make the necessary certification on Standard Form 2806, Individual Retirement Record. Where the employee claims creditable experience which is not readily determined, due to inadequate records, position descriptions, etc., the employee should seek verification of his claimed experience from his former supervisor, if available; from old records at home or elsewhere; and furnish his own statement of the duties he performed, time performed, and circumstances surrounding the performance. All the pertinent information should then be sent along with the employee's application for retirement to the manpower division for determination. The Regional Flight Surgeon will also submit a recertification that the employee is permanently disqualified for career controller work."

In this section we note that additional officials participate in the approval/disapproval determination relative to the "certification of creditable service," i.e.:

Chief of the Servicing Payroll Branch;
Air Traffic Division Chief;
Designee of the Manpower Division Chief.

Not only are additional authorities designated, but also the section provides that creditable service may be certified by a former supervisor or by an unsworn self-serving statement by the employee himself relative to his own stewardship.

From this implementing order 3410.11A, it is difficult for us to understand how any knowledgeable Air Traffic Control Specialist (Center/Tower) would be denied the benefits provided by Public Law 92-297.

By way of review, this issue with kindred subjects was considered by the House Committee on Post Office and Civil Service in the 96th Congress and reported favorably (House Report 96-726 (Part I)) after exhaustive, in-depth hearings conducted by Chairperson Schroeder, Subcommittee on the Civil Service (Serial 96-37).

The Bill was subsequently referred to the House Appropriations Committee which reported the Bill adversely (House Report 96-726, Part 2) but with an important recommendation quoted as follows:

"The Committee is cognizant of the potential for detrimental effect on *employee morale* resulting from the exclusion of flight service station specialists from programs such as those authorized by Public Law 92-297. The Committee intends, therefore, to recommend a further review of this problem and its impact on aviation safety. The Committee believes that this further study is necessary before a decision is made with respect to inclusions of flight service station personnel in this program." (Italics added)

On July 24, 1980 - House Appropriations Committee directed further review and report (House Report 96-1193) quoted below:

"Under Public Law 92-297, air traffic controllers can qualify for an early retirement program, but flight service station specialists are not entitled to similar benefits. In part 2 of the report of H.R. 1262, the Committee recommended a further review of this situation. This Committee reiterates this recommendation and directs the FAA, in cooperation with an independent organization, to report on this matter no later than September 30, 1981."

Finally, on November 24, 1981, the Administrator of the Federal Aviation Administration forwarded his report to the House Committee on Appropriations. In his covering letter the Administrator stated:

"Based on the findings and conclusions presented by JWK International, we do not find any evidence which warrants the extension of early retirement benefits to Flight Service Station Specialists."

This was an excellent opportunity for the Administrator to express his own views on the issue since the entire Flight Service System is an important part of his organization. He, however, remained silent and relied completely on the views of an outside entity. We can only infer that the FAA Administrator had no position he considered worthy of consideration by the Appropriations Committee.

Believing the JWK International study to be inadequate, the NAATS leadership commissioned the authoritative personnel firm of Ruttenberg, Friedman, Kilgallon and Associates, Inc., to critique the FAA product, which they found to be faulty. These conclusions were forwarded to the House Appropriations

Committee which, subsequently, on August 19, 1982 (Report 97-783), stated:

"EARLY RETIREMENT - Under Public Law 92-297 air traffic controllers can qualify for an early retirement program, but flight service station specialists are not entitled to similar benefits. In part 2 of House Report 96-726 the Committee recommended a further review of this situation. This study was completed in November, 1981, and an analysis of the study was provided to the Committee earlier this year. Because of the questions raised regarding the validity of the conclusions contained in the study, the Committee is considering requesting a General Accounting Office evaluation of both the study and the subsequent analysis."

The Senate and House conferees, meeting on the Department of Transportation and related agencies appropriations in 1983, considered this issue to be of such importance that it was addressed in the Conference Report:

"The conferees urge that the study and the analysis relative to eligibility of flight service station specialists for early retirement under Public Law 92-297 be referred to the General Accounting Office for evaluation, analysis and report." (Congressional Record, Volume 128, No. 46, Monday, December 13, 1982, page H 9512)

Eventually, in May, 1983, the FAA Administrator, in compliance with the Congressional mandate, forwarded the two studies to the General Accounting Office.

On March 27, 1984, the United States General Accounting Office report B-214320, "Review of Studies on Early Retirement of Flight Service Station Specialists," the GAO concluded:

"Our review showed that JWK's study results are inconclusive. The results do not support FAA's conclusion that FSS specialists should not be afforded early retirement"

When the FAA was questioned by Congressman Ratchford about the GAO Report and the GAO conclusions (Hearings - Subcommittee on Transportation, House Appropriations Committee for Fiscal Year 1985 - Part 6, page 572), FAA witness Weithoner responded:

"Mr. Ratchford, we believe the (FAA - added) study could have been more thoroughly done, and we agree with and accept some of the GAO criticisms. We also disagree with and do not accept some of their observations.

"We believe their review was limited because they concerned themselves only with two documents: our report and the critical report that had been prepared at the request of the union.

"We believe that their criticism would have been somewhat different if they had the opportunity, or had they taken the opportunity, to review some of the supporting documentation and talked with our people at the *Civil Aviation Medical Institute* and so on." (Italics added)

This response by witness Weithoner was a surprise since, at that time, there was an ongoing study at the Civil Aviation Medical Institute relative to the Miami Flight Service Station. It is entitled:

"PHYSIOLOGICAL RESPONSES TO UNVARYING (STEADY) AND 2-2-1
SHIFTS: MIAMI INTERNATIONAL FLIGHT SERVICE STATION
(FAA-AM-85-2 - dtd February, 1985)

By C. E. Melton

Civil Aeromedical Institute
Federal Aviation Administration
Oklahoma City, Oklahoma"

The Civil Aeromedical Institute is the FAA's own medical research activity and Dr. Melton has been involved in, and has conducted, many studies related to stress in the Air Traffic Control environment.

Some excerpts from this report are germane to this hearing:

"In 1974 a stress index was formulated in this laboratory based on excretion levels of the stress indicator hormones (SIH's) in urine (KGS, E, and NE). This index facilitated comparison of stress at various ATC facilities (5,7). Basically, the index consists of the product of resting and working values of each SIH mathematically treated so as to provide a unitary common denominator for each SIH. The SIH's are treated in this way so that each will have equal importance in stress assessment; otherwise, the catecholamines' importance would be overwhelmed by the steroids' importance because of the far greater amount of steroid material in urine compared to catecholamines. The individual indices are designated cst (KGS), ce (E) and cne (NE). The average of the three indices is designated Cs, the composite stress index."

(Underlining added)

"When stress indices for all ATC facilities studied are listed (Table XIX), MIA IFSS tops the list as the most stressful (Cs=2.60)."

(MIA IFSS means Miami International Flight Service Station.)

Table XIX follows:

TABLE XIX

Comparison of Various ATC Facilities by Means of a Stress Index

<u>Facility</u>	C s	C st	C e	C ne
Miami IFSS ('82)*	2.60	.95	1.03	4.85
O'Hare ATCT ('68)	1.05	1.41	.75	.98
Opa Locka ATCT ('72)	.84	.64	.74	1.15
Atlantic ARTCC ('73)	.82	.76	.34	1.37
Miami ARTCC ('72)	.76	.61	.71	.96
Los Angeles TRACON ('74)	.75	.27	1.10	1.44
Houston ATCT ('70)	.74	1.27	.29	.65
Oakland TRACON ('74)	.72	.23	1.31	.61
Houston ATCT ('71)	.68	.89	.62	.52
Oakland TRACON ('72)	.60	.62	.76	.43
Los Angeles TRACON ('72)	.60	.66	.34	.81
Fort Worth ARTCC ('73)	.34	.22	.58	.20

*NOTE: The C_s for Miami IFSS was subsequently corrected as per the Addendum (pages 29-30) to 1.46.

"It was thought that perhaps the high level of excretion of NE might be a reflection of the age of the subjects. However, the correlation between NE excretion level and age is not statistically significant ($r=0.29$, $p>0.30$). Some of the subjects were on medication for control of blood pressure; however, there was no apparent significant correlation between medication usage and NE excretion. Analytical reruns and audits of laboratory procedures have likewise failed to reveal experimental error as the cause of the high values. Further, urine collection procedures were identical to procedures used in other studies. The same personnel performed these analyses by the same methods as in the previous studies."

(Underlining added)

"A diligent search for experimental error has delayed this report beyond the reporting time normally required for studies of this type and the search will continue as long as personnel and facilities are available for this purpose or until the validity of the high values is established.

"The MIA IFSS employees as a group possibly show the highest level of acute workload stress of any ATC facility yet studied."

It is apparent to NAATS that the Miami International Flight Service Station did not fit the mold which we believe was presupposed by the FAA's Civil Aeromedical Institute.

In fairness to Dr. Melton, he did include information as to his checks and double checks of all procedures in the laboratory reruns. In fact, at the end of the report he included an addendum to express his views, not based on fact or research, but based on his belief and conjecture:

"It is now believed that, by human error, samples for creatinine analysis were taken from the nonacidified moiety, resulting in low creatinine values. Because the weight of creatinine forms the denominator of the creatinine-based ratio, calculated SIH's were inordinately high. The fact that all SIH values were high, impelled us to look first at the creatinine analysis, but the samples for the reruns were again taken from the urine previously set aside for creatinine analysis, thus giving

the same result as the first run. It was only when we started from "square one" that we realized what had happened.

(Underlining added)

The last sentence in the above paragraph is not understood since throughout the report it is apparent that the CAMI staff and Dr. Melton started from "square one" many times.

Even with his "correction", Dr. Melton states:

"Because the error is a relatively constant one, we do not believe that conclusions regarding differences in the two shift patterns are compromised. The computed level of stress is changed, however, to about half the value reported."

And, finally, FAA's Dr. Melton states:

"The Miami International Flight Service Station (MIA IFSS), though, still retains its number one position on the stress index list, surpassing even O'Hare Tower during the high-stress time of the 1968 ATC slowdown (IFSS Cs= 1.46, ORD Cs= 1.05)."

(ORD means O'Hare Tower.)

On February 6, 1985, the Honorable Gene Taylor of Missouri introduced HR 989 in the House of Representatives, which seeks to include Flight Service personnel for early retirement.

On June 27, 1985, The Honorable Mary Rose Oakar, Chairperson, Subcommittee on Compensation and Employee Benefits of the House Post Office and Civil Service Committee, held hearings on HR 989.

In his statement before that Subcommittee, Mr. Taylor stated, among other compelling arguments, the following:

"The Secretary of Transportation recognized the hazards of the workplace in the Flight Service System, in the implementation of 5 USC 5542 by including station employees for eligibility for special overtime pay and stated:

' (A) The duties of which are critical to the immediate daily operation of the Air Traffic Control System, directly affect aviation safety, and involve physical or mental strain or hardship.'

In my view, this action alone is sufficient reason for the enactment of H. R. 989.

"General Aviation is the most hazardous segment of aviation, and yet, the FAA denies early retirement benefits to employees involved with general aviation and provides these same benefits to those employees involved with scheduled carriers, the safest segment of aviation.

"If fairness and equity in the work force is to be achieved and if aviation safety is to be enhanced, we have no alternative but to include the air traffic control specialists in stations within the group entitled to early retirement and remove the stigma of separateness from these loyal and dedicated Federal employees."

And that, Mr. Chairman and Members of this Committee, is where the matter stands today.

In our view, the recommendations to aircraft pilots by Air Traffic Control Specialists (Station) are just as important and just as vital to aviation safety as the recommendations by Air Traffic Control Specialists (Center, Tower), including such geographical locations as O'Hare, Kennedy, Los Angeles and any other area.

The issue is one of fairness and equality, and our community of Specialists has been second class citizens since the passage of PL 92-297, and they consider themselves as such.

It is axiomatic that all personnel in the same personnel category must be treated equally and fairly if high morale, good order and discipline are to be achieved. This is not the case in the Air Traffic Control community where there exists a caste system of noblemen and serfs.

We believe it to be appropriate to quote the Chairman of the Subcommittee on Investigations and Oversight of the House Committee on Public Works and Transportation in his hearing record, "The Impact of Weather on Aviation Safety". (98-44, pages 425-26)

"We did not begin this inquiry with the thought that it might solve the weather problem, but I believe we did put a handle on some of the things which will help in improving our accommodation of weather into the Nation's air transportation system.

"Initially, we learned some alarming statistics from the Safety Board as to the impact of weather on general aviation, commuter airlines, and the air carrier operations. The percentages quoted for the number of fatal accidents where weather was considered a factor seem to be far beyond what the safety investigators had expected to find, and certainly they were shocking to us.

"The loss of even one life is difficult to accept, but the 5-year total of 4,000 tells us that a lot of people may be concerned about weather. But not enough people are talking about how to avoid flying into these turbulent cells.

"We heard of the planning activities of some carriers who utilize all the weather information available so as to avoid flying near or into what may be a hazardous situation. But we also heard of some of the difficulties associated with general aviation attempts to obtain weather information from flight service stations.

"It became pretty clear that the message being given by all the witnesses is that suspect weather cells should be avoided just as one aircraft should avoid the path of another aircraft." (Italics added)

We urge that Air Traffic Control Specialists (Station) - Flight Service Personnel - be provided the same early retirement opportunities as are accorded to other Air Traffic Control Specialists of the same Series 2152 designation.

Thank you, Mr. Chairman